

BQC - 92 – 029 – Amends BQC 91-074

Date: June 5, 1992

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From: Larry Tainter, Director
Bureau of Quality Assurance

Subject: Recent Amendments to Wisconsin's Living will and Power of Attorney for Health Care Statutes

On March 1, 1992, the Wisconsin legislature passed Wisconsin Act 281 which contained a number of amendments to Wisconsin's living will (chapter 154, Stats.) and power of attorney for health care statutes (chapter 155, Stats.). These amendments were signed by the governor on April 29, 1992 and become effective May 14, 1992. This memo summarizes these changes and updates/amends the description of state regulations concerning living wills, power of attorney for health care, and uniform durable power of attorney found in BQC-91-074.

Who can witness the signing of a living will?

The witnessing requirements for a living will and a power of attorney for health care document were both amended to be consistent with each other. The major change is that:

no employee of an inpatient health care facility in which the individual resides and no employee of a health care provider who is serving the individual, with the exception of a chaplain or a social worker, may serve as a witness to the signing of a living will or a power of attorney for health care document.

Filing of a living will

A new section was added to chapter 154 allowing an individual to file his/her living will, for safekeeping, with the register in probate of the county in which the individual resides. If filed in this manner, the following persons could have access to the living will without first obtaining consent from the individual:

- (a) any individual authorized by the person who made the living will;
- (b) a health care provider who is providing care to the individual;
- (c) the court and all parties involved in proceedings for guardianship, for emergency detention, for involuntary commitment, or for protective placement or protective services; or
- (d) any person under the order of a court for good cause shown.

Other changes:

In addition to the above, the following changes also were made:

- the language in the power of attorney for health care document was simplified to make it easier to understand, and was revised to reflect the changes noted above;
- the department was instructed to develop a cover letter to accompany the living will document.

Copies of the new power of attorney for health care document and cover letter for the living will are being printed and will be available in mid-June. Persons wishing to obtain a copy of each can do so by writing and sending a stamped, business-size, self-addressed return envelope to Sherry Kasper-Mohrbacher, Division of Health, PO Box 309, Madison, Wisconsin 53701-0309. Bulk copies are also available at \$10 for 100 Power of Attorney for Health Care documents and \$7 for 100 Declaration to Physician documents (living wills). Questions concerning the ordering or distribution of these forms can be forwarded to Ms. Kasper-Mohrbacher at (608) 266-8475.

If you have questions concerning the actual amendments to the statutes, please contact either Sharon Sailor (608) 266-1718 or Jerry Cabala (608) 266-8482.

LT:BH 4406.nm

Attachment

cc: -BQC Staff
 -Office of Legal Counsel
 -Ann Haney, DOH Admin.
 -Kevin Piper, BHCF Dir.
 -HCFA, Region V
 -Illinois State Agency
 -Ohio State Agency
 -Michigan State Agency
 -Indiana State Agency
 -Minnesota State Agency
 -WI Coalition for Advocacy
 -Service Employees Intern'l Union
 -WI Counties Assn.
 -WI Medical Records Assn. Cons. Committee
 -WI Assoc. of Homes and Services for Aging
 -Comm. on Aging, Ext. Care Fac./HH (SMS)
 -WI Assn. of Nursing Homes
 -WI Assn. of Medical Directors
 -Admin., Division of Care and Treatment Facilities
 -WI Assn. of Hosp. SW and Discharge Planners
 -Bd. on Aging & Long-Term Care
 -Bur. of Design, Prof., DRL
 -WI Homecare Organization
 -Bur. Long Term Support, DCS
 -WI Hospital Assn.
 -Hospice Organization of WI